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Attorneys for Defendant,
SAN DIEGO ACCOUNTS SERVICE
dba CALIFORNIA ACCOUNTS SERVICE
erroneously sued as CALIFORNIA
ACCOUNTS SERVICE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ERICA WELKER, an individual, Plaintiff, vs. CALIFORNIA ACCOUNTS SERVICE, Defendants.	CASE NO. 3:08-cv-00723-JLS-CAB **DEFENDANT SAN DIEGO ACCOUNTS SERVICE dba CALIFORNIA ACCOUNTS SERVICE'S ANSWER TO COMPLAINT**

COMES NOW Defendant, SAN DIEGO ACCOUNTS SERVICE dba CALIFORNIA ACCOUNTS SERVICE erroneously sued as CALIFORNIA ACCOUNTS SERVICE ("Defendant"), appearing for itself and for no other person, firm or entity, files its Answer to the Complaint of Plaintiff, ERICA WELKER ("Plaintiff"), an individual, by admitting, denying and alleging as follows:

1. Answering Paragraph 1 of the Complaint, the allegations set forth are conclusions of law and therefore, no response is required thereto.

2. Answering Paragraph 2 of the Complaint, the allegations set forth are conclusions of law and therefore, no response is required thereto.

3. Answering Paragraph 3 of the Complaint, Defendant denies the allegations therein.

4. Answering Paragraph 4 of the Complaint, Defendant is without knowledge or

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information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

5. Answering Paragraph 5 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

6. Answering Paragraph 6 of the Complaint, Defendants denies each and every allegation contained therein.

7. Answering Paragraph 7 of the Complaint, Defendant admits the allegation contained therein.

8. Answering Paragraph 8 of the Complaint, defendants are without knowledge or information sufficient to form a belief as to the truth of plaintiff's allegations, and, on that basis, deny each and every allegation contained therein.

9. Answering Paragraph 9 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

10. Answering Paragraph 10 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

11. Answering Paragraph 3 of the Complaint, Defendant admits the allegations contained therein.

12. Answering Paragraph 12 of the Complaint, Defendant admits the allegations contained therein.

13. Answering Paragraph 13 of the Complaint, Defendant admits the allegations contained therein.

14. Answering Paragraph 14 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

15. Answering Paragraph 15 of the Complaint, Defendant is without knowledge or

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information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

16. Answering Paragraph 16 of the Complaint, Defendant admits the allegations contained therein.

17. Answering Paragraph 17 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

18. Answering Paragraph 18 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

19. Answering Paragraph 19 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

20. Answering Paragraph 20 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

21. Answering Paragraph 21 of the Complaint, admits the allegations contained therein.

22. Answering Paragraph 22 of the Complaint, Defendant admits the allegations contained therein.

23. Answering Paragraph 23 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

24. Answering Paragraph 24 of the Complaint, Defendant admits the allegations contained therein.

25. Answering Paragraph 25 of the Complaint, Defendant admits the allegations contained therein.

26. Answering Paragraph 26 of the Complaint, Defendant admits the allegations contained therein.

27. Answering Paragraph 27 of the Complaint, Defendant admits the allegations contained therein.

28. Answering Paragraph 28 of the Complaint, Defendant denies the October 16, 2007 call was an "initial communication" under 15 U.S.C. § 1692, et seq. and Ca. Civ. Code § 1788, et seq. As for the remaining allegations, Defendant admits the allegations.

29. Answering Paragraph 29 of the Complaint, Defendant denies the allegations contained therein.

30. Answering Paragraph 30 of the Complaint, Defendant denies the allegations contained therein.

31. Answering Paragraph 31 of the Complaint, Defendant denies the allegations contained therein.

32. Answering Paragraph 32 of the Complaint, Defendant denies the allegations contained therein.

33. Answering Paragraph 33 of the Complaint, Defendant denies the allegations contained therein.

34. Answering Paragraph 34 of the Complaint, Defendant denies the allegations contained therein.

35. Answering Paragraph 35 of the Complaint, Defendant denies the allegations contained therein.

36. Answering Paragraph 36 of the Complaint, Defendant admits the allegations contained therein.

37. Answering Paragraph 37 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

38. Answering Paragraph 38 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

39. Answering Paragraph 39 of the Complaint, Defendant is without knowledge or

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information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

40. Answering Paragraph 40 of the Complaint, Defendant admits the allegations contained therein.

41. Answering Paragraph 41 of the Complaint, Defendant denies the allegations contained therein.

42. Answering Paragraph 42 of the Complaint, Defendant denies the allegations contained therein.

43. Answering Paragraph 43 of the Complaint, Defendant admits the allegations contained therein.

44. Answering Paragraph 44 of the Complaint, Defendant denies the allegations contained therein.

45. Answering Paragraph 45 of the Complaint, Defendant denies the allegations contained therein.

46. Answering Paragraph 46 of the Complaint, Defendant denies the allegations contained therein.

47. Answering Paragraph 47 of the Complaint, Defendant admits it sent a letter to Plaintiff.

48. Answering Paragraph 48 of the Complaint, Defendant admits the allegations contained therein.

49. Answering Paragraph 49 of the Complaint, Defendant admits the letter included language "The debt you owe being collected by this agency is being reviewed for filing suit" and "Consider your alternatives closely." Defendant denies the remaining allegations.

50. Answering Paragraph 50 of the Complaint, Defendant denies the allegations contained therein.

51. Answering Paragraph 51 of the Complaint, Defendant denies the allegations contained therein.

52. Answering Paragraph 52 of the Complaint, Defendant denies the allegations

contained therein.

53. Answering Paragraph 53 of the Complaint, Defendant denies the allegations contained therein.

54. Answering Paragraph 54 of the Complaint, Defendant denies the allegations contained therein.

55. Answering Paragraph 55 of the Complaint, Defendant admits it sent a letter to Plaintiff.

56. Answering Paragraph 56 of the Complaint, Defendant admits the allegations contained therein.

57. Answering Paragraph 57 of the Complaint, Defendant

58. Answering Paragraph 58 of the Complaint, Defendant denies the allegations contained therein.

59. Answering Paragraph 59 of the Complaint, Defendant denies the allegations contained therein.

60. Answering Paragraph 60 of the Complaint, Defendant admits it was contacted by Plaintiff. Defendant denies the remaining allegations.

61. Answering Paragraph 55 of the Complaint, Defendant denies the allegations contained therein.

62. Answering Paragraph 62 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

63. Answering Paragraph 63 of the Complaint, Defendant denies the allegations contained therein.

64. Answering Paragraph 64 of the Complaint, Defendant denies the allegations contained therein.

65. Answering Paragraph 65 of the Complaint, Defendant denies the allegations contained therein.

66. Answering Paragraph 66 of the Complaint, Defendant is without knowledge or

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information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

67. Answering Paragraph 67 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

68. Answering Paragraph 68 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

69. Answering Paragraph 69 of the Complaint, Defendant denies the allegations contained therein.

70. Answering Paragraph 70 of the Complaint, Defendant denies the allegations contained therein.

71. Answering Paragraph 71 of the Complaint, Defendant denies the allegations contained therein.

72. Answering Paragraph 72 of the Complaint, Defendant denies the allegations contained therein.

73. Answering Paragraph 73 of the Complaint, Defendant denies the allegations contained therein.

74. Answering Paragraph 74 of the Complaint, Defendant denies the allegations contained therein.

75. Answering Paragraph 75 of the Complaint, Defendant denies the allegations contained therein.

76. Answering Paragraph 76 of the Complaint, Defendant denies the allegations contained therein.

77. Answering Paragraph 77 of the Complaint, Defendant denies the allegations contained therein.

78. Answering Paragraph 78 of the Complaint, Defendant denies the allegations contained therein.

79. Answering Paragraph 79 of the Complaint, Defendant denies the allegations contained therein.

80. Answering Paragraph 80 of the Complaint, Defendant admits the allegations contained therein.

81. Answering Paragraph 80 of the Complaint, Defendant admits the allegations contained therein.

82. Answering Paragraph 82 of the Complaint, Defendant denies the allegations contained therein.

83. Answering Paragraph 83 of the Complaint, Defendant denies the allegations contained therein.

84. Answering Paragraph 84 of the Complaint, Defendant denies the allegations contained therein.

85. Answering Paragraph 85 of the Complaint, Defendant denies the allegations contained therein.

86. Answering Paragraph 86 of the Complaint, Defendant denies the allegations contained therein.

87. Answering Paragraph 87 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

88. Answering Paragraph 88 of the Complaint, Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations, and, on that basis, denies each and every allegation contained therein.

89. Answering Paragraph 89 of the Complaint, Defendant admits its left a voice message for Plaintiff. Defendant denies it left a voice message in an attempt to collect a debt.

90. Answering Paragraph 90 of the Complaint, Defendant admits the allegations contained therein.

91. Answering Paragraph 91 of the Complaint, Defendant denies the allegations contained therein.

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92. Answering Paragraph 92 of the Complaint, Defendant denies the allegations contained therein.

93. Answering Paragraph 93 of the Complaint, Defendant denies the allegations contained therein.

94. Answering Paragraph 94 of the Complaint, Defendant denies the allegations contained therein.

95. Answering Paragraph 95 of the Complaint, Defendant denies the allegations contained therein.

96. Answering Paragraph 96 of the Complaint, Defendant denies the allegations contained therein.

97. Answering Paragraph 97 of the Complaint, Defendant admits its left a voice message for Plaintiff. Defendant denies it left a voice message in an attempt to collect a debt.

98. Answering Paragraph 98 of the Complaint, Defendant denies the allegations contained therein.

99. Answering Paragraph 99 of the Complaint, Defendant denies the allegations contained therein.

100. Answering Paragraph 100 of the Complaint, Defendant denies the allegations contained therein.

101. Answering Paragraph 101 of the Complaint, Defendant denies the allegations contained therein.

102. Answering Paragraph 102 of the Complaint, Defendant admits its left a voice message for Plaintiff. Defendant denies it left a voice message in an attempt to collect a debt.

103. Answering Paragraph 103 of the Complaint, Defendant admits the allegations contained therein.

104. Answering Paragraph 104 of the Complaint, Defendant denies the allegations contained therein.

105. Answering Paragraph 105 of the Complaint, Defendant denies the allegations contained therein.

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106. Answering Paragraph 106 of the Complaint, Defendant denies the allegations contained therein.

107. Answering Paragraph 107 of the Complaint, Defendant denies the allegations contained therein.

108. Answering Paragraph 108 of the Complaint, Defendant denies the allegations contained therein.

109. Answering Paragraph 109 of the Complaint, Defendant admits its left a voice message for Plaintiff. Defendant denies it left a voice message in an attempt to collect a debt.

110. Answering Paragraph 110 of the Complaint, Defendant admits the allegations contained therein.

111. Answering Paragraph 111 of the Complaint, Defendant denies the allegations contained therein.

112. Answering Paragraph 112 of the Complaint, Defendant denies the allegations contained therein.

113. Answering Paragraph 113 of the Complaint, Defendant denies the allegations contained therein.

114. Answering Paragraph 114 of the Complaint, Defendant denies the allegations contained therein.

115. Answering Paragraph 115 of the Complaint, Defendant denies the allegations contained therein.

116. Answering Paragraph 116 of the Complaint, Defendant denies the allegations contained therein.

117. Answering Paragraph 117 of the Complaint, Defendant denies the allegations contained therein.

118. Answering Paragraph 118 of the Complaint, Defendant denies the allegations contained therein.

119. Answering Paragraph 119 of the Complaint, Defendant hereby incorporates all of the above paragraphs of this Answer as though fully stated herein.

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120. Answering Paragraph 120 of the Complaint, Defendant denies the allegations contained therein.

121. Answering Paragraph 121 of the Complaint, Defendant denies the allegations contained therein.

122. Answering Paragraph 122 of the Complaint, Defendant hereby incorporates all of the above paragraphs of this Answer as though fully stated herein.

123. Answering Paragraph 123 of the Complaint, Defendant denies the allegations contained therein.

124. Answering Paragraph 124 of the Complaint, Defendant denies the allegations contained therein.

PRAYER FOR RELIEF

125. Answering Paragraph 125 of the Complaint, Defendant denies Plaintiff is entitled to the relief requested.

126. Answering Paragraph 126 of the Complaint, Defendant denies Plaintiff is entitled to the relief requested.

127. Answering Paragraph 127 of the Complaint, Defendant denies Plaintiff is entitled to the relief requested.

128. Answering Paragraph 128 of the Complaint, Defendant denies Plaintiff is entitled to the relief requested.

129. Answering Paragraph 129 of the Complaint, Defendant denies Plaintiff is entitled to the relief requested.

FIRST AFFIRMATIVE DEFENSE

130. As a separate, affirmative defense, Defendant alleges that the Complaint, and each and every purported cause of action contained therein, fails to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

131. As a separate, affirmative defense, Defendant alleges that the alleged actions of defendants were proper and did not violate any provisions of 15 U.S.C. § 1692 et. seq.

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THIRD AFFIRMATIVE DEFENSE

132. As a separate, affirmative defense, Defendant alleges that at all times mentioned in the Complaint, Defendant acted lawfully and within its legal rights, with a good faith belief in the exercise of that right, and in the furtherance of a legitimate business purpose. Further, Defendant acted in good faith in the honest belief that the acts, conduct and communications, if any, of the Defendant was justified under the circumstances based on information reasonably available to this answering Defendant.

FOURTH AFFIRMATIVE DEFENSE

133. As a separate, affirmative defense, Defendant alleges that the alleged actions of the Defendant were not accompanied by actual malice, intent or ill will.

FIFTH AFFIRMATIVE DEFENSE

134. As a separate, affirmative defense, Defendant alleges that Defendant never engaged in any conduct which would violate Plaintiff's privacy rights.

SIXTH AFFIRMATIVE DEFENSE

135. As a separate, affirmative defense, Defendant allege that Defendant's conduct, communications and actions, if any, were privileged.

SEVENTH AFFIRMATIVE DEFENSE

136. As a separate, affirmative defense, assuming arguendo that this Defendant violated a statute alleged in the complaint, which presupposition the Defendant denies, such violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

EIGHTH AFFIRMATIVE DEFENSE

137. As a separate, affirmative defense, Defendant alleges that the Plaintiff is barred from any recovery against this answering Defendant by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

138. As a separate, affirmative defense, Defendant alleges that its conduct, communications and actions, if any, were privileged pursuant to Civil Code § 1785.32.

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TENTH AFFIRMATIVE DEFENSE

139. As a separate, affirmative defense, Defendant alleges that it, at all times alleged in the complaint, maintained reasonable procedures created to prevent any type of intentional violations of the Fair Debt Collection Practices Act.

ELEVENTH AFFIRMATIVE DEFENSE

140. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged in any sum or sums alleged, which Defendant denies, then Plaintiff's damages are limited by 15 U.S.C. § 1692(k)(a)(1), § 1692(k)(a)(2)(A), § 1692(k)(a)(3) and 15 U.S.C. § 1692(k)(b)(1).

TWELFTH AFFIRMATIVE DEFENSE

141. As a separate, affirmative defense, Defendant alleges that Defendant's conduct, communications and actions, if any, were privileged pursuant to 15 U.S.C. § 1692(k)©.

THIRTEENTH AFFIRMATIVE DEFENSE

142. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged in any sum or sums alleged, which Defendant denies, then Plaintiff's damages are limited by California Civil Code Section 1788.30.

FOURTEENTH AFFIRMATIVE DEFENSE

143. As a separate, affirmative defense, Defendant alleges that the alleged actions of Defendant was proper and did not violate any provisions of California Civil Code Section 1788, et seq.

FIFTEENTH AFFIRMATIVE DEFENSE

144. As a separate, affirmative defense, Defendant reserves the right to allege and assert any additional and/or further affirmative defenses as become apparent to Defendant during the course of this litigation.

WHEREFORE, this answering Defendant prays,

1. That Plaintiff take nothing by reason of her Complaint;
2. For judgment in favor of Defendant, and against Plaintiff;

///

3. For costs of suit and reasonable attorneys' fees incurred; and

4. For such other and further relief as the Court may deem just and proper.

DATED: June 6, 2008

CARLSON & MESSER LLP

By ______________________
David J. Kaminski, Esq.
Larissa G. Nefulda, Esq.
Attorneys for Defendant,
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